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frontier

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June 13, 1995

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 94-54

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Enclosed for filing please find an original plus nine (9) copies of the Comments of Frontier Cellular Holding Inc.

To acknolwedge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

cc: International Transcription Service

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 14 1995
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In the Matter of	)	
	)	
Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services	)	**CC Dkt. 94-54**

COMMENTS OF FRONTIER CELLULAR HOLDING INC.

Introduction

Frontier Cellular Holding Inc. ("Frontier")[1] submits these comments in response to the Commission's Second Notice in this proceeding.[2] The Commission requests comment on three topics: (1) interconnection obligations; (2) roaming; and (3) resale. In addressing these areas, the Commission should rely upon regulation, rather than competition, only to the minimum extent necessary to ensure that valid federal public policy goals are not thwarted.

First, Frontier has no objection to the Commission's articulation -- already contained in the Second Notice[3] -- of a common carrier duty to provide forms of interconnection that are technically and economically reasonable. There is no need, however, for the Commission to impose specific interconnection mandates upon commercial mobile

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1 Frontier was formerly known as Rochester Tel Cellular Holding Corp.

2 *Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services,* CC Dkt. 94-54, Second Notice of Proposed Rulemaking, FCC 94-149 (April 20, 1995) ("Second Notice").

3 *Id.,* ¶ 41.

services providers. Whatever product and geographic market definition is utilized for analysis, there is little likelihood that any particular commercial mobile services provider will possess market power sufficient to disadvantage rivals through denial of interconnection. To the extent that demand evolves for direct mobile-to-mobile interconnection, commercial mobile services providers will have every incentive to respond to that demand.

Second, consistent with the foregoing, the Commission should encourage the development of mutually advantageous roaming arrangements among commercial mobile services providers. Further action, however, is unnecessary and potentially counterproductive. In particular, the Commission should decline to mandate that existing commercial mobile services providers be required to provide direct access to their data bases used to provide intelligent network services. To the extent that such arrangements are economically attractive, they will likely develop. Mandated access could well create significant free-rider problems.

Finally, Frontier has no objection to an open resale policy. There are, however, two significant exceptions. After a relatively brief start-up period, facilities-based commercial mobile services providers should not be required to allow their facilities-based customers to continue to resell their services. A limitation on the period of time during which unlimited resale is available to licensees will encourage the deployment of competitive networks and result in the efficient utilization of spectrum. In addition, the Commission should decline to mandate the interconnection of reseller switches.

Argument

I. THE COMMISSION NEED NOT MANDATE PARTICULAR FORMS OF INTERCONNECTION FOR COMMERCIAL MOBILE SERVICES PROVIDERS.

As the Commission correctly recognizes, an interconnection mandate may only be necessary in the presence of significant market power.[4] Even under the narrowest reasonable definitions of relevant geographic and product markets -- locally-defined geographic markets for commercial mobile voice services -- indicia of market power are absent. There are already two licensed cellular providers in virtually every cellular market. The Commission is proceeding to auction spectrum for personal communications services ("PCS") and wide-area specialized mobile radio ("SMR") systems are coming on line. Thus, in the near future, there will be multiple facilities-based providers of commercial mobile services competing for business in virtually every area of the country.

Moreover, there is no reason to believe that any one provider or type of provider (*e.g.,* cellular, PCS) will have any ability to achieve market power. Although cellular carriers have already deployed a substantial amount of infrastructure, this fact alone should not provide cellular carriers with any significant competitive advantage. The results of the PCS auctions held to date, for example, suggest that strong expectations exist that PCS will be commercially successful. Moreover, the winning bidders tended to represent large enterprises with the financial wherewithal to construct and develop their networks quickly

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4 *Id.,* ¶ 36.

and compete successfully for customers. In addition, the complaints in the cellular context regarding the "headstart" advantage allegedly held by the wireline cellular providers proved largely illusory.[5]

Similarly, there is no basis for any conclusion that affiliation with a local exchange carrier[6] provides a commercial mobile services provider with any competitive advantage or incentive or ability to discriminate in the terms and conditions of interconnection. If direct, mobile-to-mobile interconnection, in fact, proves to be more efficient or less costly than indirect interconnection through the exchange carrier, any attempted unreasonable conduct on the part of a landline-affiliated commercial mobile service provider would be economically counterproductive. By attempting to force interconnection through the exchange carrier, such a provider would do no more than raise its own costs of doing business, costs that its competitors would be completely free to avoid.

In a market characterized by lack of market power -- as is the case with commercial mobile services -- there is no need for the Commission to promulgate specific interconnection requirements. If such arrangements are, or become, economically attractive, commercial mobile service providers will have every incentive to make such arrangements available on commercially reasonable terms. Such arrangements will

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5 On this basis, the Commission should not adopt the suggestion that it treat cellular carriers as "dominant" and other commercial mobile services providers as "non-dominant," subjecting the former to more stringent regulation. *See id.*, ¶ 27 n.59. Not only is such a result unnecessary, it runs counter to one underlying purpose of the Omnibus Budget Reconciliation Act -- parity in the regulation of all commercial mobile services providers.

6 *See id.*, ¶ 43.

benefit all parties to these transactions. The Commission may safely rely upon competition, rather than regulation, to promote the development of economically efficient interconnection arrangements.[7]

II. THE COMMISSION SHOULD ENCOURAGE BUT NOT MANDATE PARTICULAR ROAMING ARRANGEMENTS.

As the Commission recognizes,[8] roaming permits customers of one service provider to receive service in areas served by other providers. Thus, roaming is both a source of revenue to commercial mobile services providers and a source of convenience for customers. Both provide incentives for commercial mobile services providers to enter into roaming arrangements with other providers, subject to technical limitations.[9]

These attributes of roaming provide incentives for all commercial mobile service providers to enter into mutually beneficial roaming arrangements. They offer a provider's customers more alternatives for completing or receiving calls while travelling. Such arrangements also offer providers additional sources of revenue.

Nor is there any reason to anticipate that, to the extent technically feasible, cellular carriers as a group would decline to enter into mutually beneficial roaming arrangements

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7 Moreover, as the Commission correctly observes (*id.*, ¶ 29), it is far too premature in any event for it to promulgate specific interconnection obligations.

8 *Id.*, ¶ 45.

9 Because different providers utilize different frequencies, it may not be possible, for example, for customers of a PCS system to roam on a cellular system. These technical limitations may not exist in all cases and, indeed, may be overcome. For example, most cellular telephones today are capable of transmitting over either the "A" or "B" bands.

with non-cellular carriers. To an individual carrier, it should be a matter of indifference who the roamer's home carrier is. It will receive roaming revenue regardless and will also be able to offer its customers alternatives when they roam.

Such arrangements, however, must be mutually beneficial so that both parties have incentives to enter into such arrangements. For the Commission to mandate non-reciprocal roaming arrangements (*i.e.*, requiring cellular carriers to enter into roaming arrangements with PCS providers and provide access to their data bases) would be counterproductive. Such one-sided requirements would likely create free-rider opportunities. Mandated access could easily discourage other commercial mobile services licensees from investing in the technology to make advanced network services available, because they could obtain these capabilities from other providers. It would also require cellular carriers to sacrifice important competitive advantages from which they have invested substantial sums. Such non-reciprocal access requirements are neither necessary nor competitively equitable.

III. THE COMMISSION SHOULD LIMIT ANY RESALE OBLIGATIONS.

While Frontier has no objection to a general prohibition against restrictions on resale, the Commission should limit such a requirement in two respects: (a) it should not provide unlimited resale opportunities for facilities-based competitors; and (b) it should decline to mandate interconnection of reseller switches.

Resale may well facilitate competition. However, permitting unlimited resale by facilities-based competitors will have several undesirable consequences. It will discourage new entrants from constructing their systems fully. This will necessarily result in inefficient spectrum utilization and frustrate the Commission's goal of encouraging a rapid, ubiquitous deployment of wireless infrastructure.[10] It would also unfairly disadvantage existing commercial mobile services providers that have invested in their networks and maintained their qualifications as Commission licensees.

The Commission recognized these concerns in the cellular context when it permitted cellular licensees to resell their competitors' services during the five-year build out period, but not thereafter.[11] The Commission's approach there strikes an appropriate balance. New entrants were able to commence service quickly, yet were provided strong incentives to construct their networks efficiently. The Commission should adopt similar procedures here.

The Commission should also define "competitors" broadly for purposes of implementing this limitation. Although different licensees have different service areas, the Commission should treat licensees that have overlapping service areas, other than *de minimis* overlaps, as competitors. Thus, for example, a PCS Basic Trading Area licensee

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[10] The suggestion that the Commission should permit unlimited facilities-based resale to avoid inefficient investment (*id.*, ¶ 91) ignores the free-rider problem. Moreover, if demand in certain areas in fact cannot support multiple wireless systems, the solution is not to permit unlimited resale by a competing licensee, but to reallocate that spectrum to more highly-valued uses.

[11] *Id.*, ¶ 62.

and a cellular licensee in a (mostly) congruent Metropolitan Statistical Area or Rural Service Area should be considered competitors for purpose of the proposed rule.

The second area in which the Commission should qualify its open resale policy is that it should not require licensees to permit interconnection of reseller switches. The Commission correctly recognizes that there is no competitive necessity for requiring interconnection of reseller switches. In addition, it is not at all clear that there are any benefits that such a requirement would generate.[12] The Commission should decline to adopt such a requirement.

Conclusion

For the foregoing reasons, the Commission should address the proposals set forth in the Notice as suggested herein.

Respectfully submitted,

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June 13, 1995

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12 *Id.*, ¶ 96.

Certificate of Service

I hereby certify that, on this 13th day of June, 1995, copies of the foregoing Comments of Frontier Cellular Holding Inc. were served by first-class mail, postage prepaid, upon the parties on the attached service list.

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